THE TRUE CHURCH PRINCIPLES

OF RESTORATION TO THE EPISCOPAL OFFICE.

# A LETTER

ADDRESSED TO THE

## CLERGY AND THE LAITY

OF THE

## PROTESTANT EPISCOPAL CHURCH,

## IN THE UNITED STATES.

BY

JOHN HENRY HOPKINS, D. D., LL. D.

BISHOP OF THE DIOCESE OF VERMONT.

BURLINGTON:
STACY & JAMESON, PRINTERS.
1854.

THE TRUE CHURCH PRINCIPLES

OF RESTORATION TO THE EPISCOPAL OFFICE.

# A LETTER

ADDRESSED TO THE

## CLERGY AND THE LAITY

OF THE

## PROTESTANT EPISCOPAL CHURCH,

## IN THE UNITED STATES.

BY

JOHN HENRY HOPKINS, D. D., LL. D.

BISHOP OF THE DIOCESE OF VERMONT.

BURLINGTON:
STACY & JAMESON, PRINTERS.
1854.

Digitized by the Internet Archive
in 2018 with funding from
This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

https://archive.org/details/truechurchprinci00hopk

# A LETTER, &c.

*My Beloved Brethren :*

The case of one of our Bishops, the Right Reverend Henry U. Onderdonk, D. D., suspended indefinitely by the sentence of the House of Bishops, in the General Convention of 1844, has lately been brought prominently forward in a Pamphlet, written by "a member of the Church," to which a "counterstatement" has been published by the Bishop of Virginia, and a "Review" of this has just been issued, by way of rejoinder. The charges brought against your Bishops by this "member of the Church," are grave and severe. He condemns the sentence of indefinite suspension as being unjust, uncanonical, illegal. He accuses the majority, who have hitherto refused to remit it, of harshness and oppression. He assumes that every well-established principle of law, whether in the Church or in the State, is opposed to our course, and seems at a loss to determine whether our ignorance or our malevolence is most worthy of reprobation.

Now I do not mean to complain of this "liberty of speech," though some might deem it quite worthy to be called licentiousness. If report speaks truly, it is the work of a gentleman elevated to the highest pinnacle of public esteem, for his well-earned forensic learning and eloquence, his pure and untarnished character, his steadfast support of the Church, and the ample fortune which has rewarded a long life of honorable industry and wisdom. I would not, if I could, pluck a single leaf from the civic crown of such a reputation, nor disturb, by one unkind word, the gentle process which should ripen such a mind for its transit to eternity. And yet I cannot but regret that the assault upon our bishops should have come from such a hand, and at such a

time as this. I regret that, without any necessity of official position or professional duty, he should disquiet his own heart by the hard and stern work of accusation. And I could have wished, most fervently, for the regard and honor that I bear him, to have heard that his last years were only occupied in promoting the welfare of the Church, and his own spiritual peace, by the counsels of Christian charity, in the spirit of love and prayer.

Still, I desire to make all allowance for the generous motive, which I doubt not animates our accomplished assailant. The warm and constant devotion which he has displayed for the suspended Bishop, deserves a certain share of sympathy and admiration. It is something rare, in this cold and selfish world, when the ardor of old friendship bursts forth in such a form, that the champion is ready to do battle against all who seem opposed to his chosen favorite. And the chivalry of the attack is the more remarkable, when the head-long impetuosity of youth can no longer be pleaded as the apology for rashness.

But while I am willing to regard this deliberate and severe assault upon the *many*, for the sake of *one*, with much indulgence, yet I may not turn aside from the duty of repelling it, by the just defence of sobriety and reason. For to me, this duty is not merely personal, but official. I am one of those unjust, severe, ignorant or malevolent bishops, who have refused to remit the sentence of Bishop Henry U. Onderdonk. And I hold myself ready to give a strict account of this portion of my humble stewardship, whenever it is demanded, directly or indirectly, by any respectable accuser of my course.

And this I propose to do precisely on the legal ground, on which our antagonist rests his whole ingenious, but mistaken accusation. I beg you to understand, however, my brethren, that it is not merely with regard to this particular case, nor yet on account of the duty which demands a defence against this particular charge, that I request your serious attention to what I have to say. My object is far more extensive and important, namely, the vindication of the sacred principle on which the ministerial and episcopal offices should be conferred or restored, according to the real law of the Church, and the will of her Divine Lord and Master. This principle, which lies at the root of the whole question, has been, in my opinion, entirely overlooked by many. And if I should succeed, as I hope, in demonstrating it to

your satisfaction, I shall have reason to thank God, though I cannot praise the "member of the Church," for the assault which gave rise to the present controversy.

The accusation brought against us is two-fold: first, that the original sentence is uncanonical, illegal, and unjust; and secondly, that for this reason, as well as on account of the lapse of time, we were bound to have remitted it. I shall consider both of those allegations in their order.

The main ground of our learned author's charge against the sentence of suspension is very plausibly stated to be the fact that the Canon of 1844, the 9th section of which was framed to meet this very case, gave no power to the Bishops to pass any sentence without a previous trial, except in the single instance of a written confession. The language of this section is as follows, viz:

"If at any time during the session of the General Convention, any bishop shall make to the House of Bishops a *written acknowledgment of his unworthiness or criminality in any particular*, the House of Bishops may proceed *without trial* to determine by vote, whether the said offending and *confessing* bishop shall be admonished, or be suspended from his office, or be deposed."

Now the objection is that the Rt. Rev. Henry U. Onderdonk did not make any such confession as would authorize a sentence under this Canon. Let us see therefore, what, in point of fact, his written confession contained. This must be gathered from his three letters, addressed to the Bishops on the melancholy occasion.

In the first of these letters, he refers to the journal of his diocesan special Convention, on his proposed resignation of his diocese by reason of ill-health. He accuses his clergy of combining against him in these words: "That narrative will likewise give you such information as I possess myself, of uncanonical meetings of most of the presbyters of this diocese, at which *charges against me were adopted*, without any notice whatever to me of such a measure being intended or in progress; and of their becoming *public* criminations before I was allowed to know of their existence; being thus *irremediable*, without my having an opportunity of denying or explaining them, or lamenting the causes alleged for them, should I believe it proper to do so; from all which course I was farther debarred, by having no specifications furnished me, as none have been throughout; and the whole

has resulted in a *wide-spread condemnation*, with no scrutiny of the facts. It of course does not explicitly appear on the Journal, but it was and is *notorious*, that many, probably most of the Convention, did not regard their action in the matter as resting on the cause given for my desire to resign, but *on the charges*. In proof of this notoriety—if any be required—*for the fact is universally known*, I may refer to the Episcopal Recorder of September 14 and 28, and the Southern Churchman of September 14, and also to the fact that my proposal to resign was ratified, without any measure being offered for my future maintainance, and even without a farewell, or the least reciprocation of the friendly regard and prayer contained in the document of June 5th, in which my wish to resign was communicated."

I shall only remark, at present, on this language of the Bishop, that he himself refers the House to the *action of his Clergy*, to the Episcopal Recorder, to the Southern Churchman, to the "*wide-spread condemnation*," to the facts which were, as he saith himself, "*notorious*," and "*universally known*." Of course, by the well settled rule of law, he obliged the Bishops to take them into consideration, because his *own act made them a part of his own statement*. We shall see, by and by, to what weight they were justly entitled, by the principles of legal evidence and right reason.

His second letter, dated four days later, viz: Oct. 8, 1844, is rather more explicit. And from this I make the following extracts:

"In the narrative I sent to the late special Convention of the diocese, I stated somewhat in detail the origin and progress of the malady with which I had been afflicted for *nearly sixteen years;* and also the remedy to which I had resorted for the alleviation of its distressing symptoms. At that Convention came into consideration my desire to resign my episcopal jurisdiction, on account of bodily infirmities, and had it been accepted on the grounds upon which it was tendered, it was entirely consonant to my wishes, (in taking leave of a diocese to which I have so long been attached by many interesting relations,) to have expressed unreservedly my deep regret that *the use of the remedy to which I refer had been the occasion of unfavorable imputations upon my character and upon the Church*. At the time of transmitting that narrative, I was but imperfectly aware of the *strength and apparent justness of these imputations, and of the extent to which they had been propagated*. Since the time alluded to, the *develop-*

*ments of public sentiment, and the unreserved communications of a few valued friends, aided by farther reflection on the past, have made me most painfully aware* that the remedy which I have so freely employed for the mitigation of bodily distress, has been so used as to *bring upon me, with too much apparent reason, the charge of excess.* In admitting this, however, I must not be understood as countenancing, in the least degree, a thousand scandalous reports which have been freely circulated through the community."

"Under all the circumstances of my situation, *I now submit myself fully and entirely to the discretion of the House of Bishops.* And though in the course of this affair, I have been compelled to undergo intense suffering of mind, and been held up to so wide though inequitable a *public reprobation* as *renders unavoidable my separation from the diocese,* and *almost annihilates my prospect of usefulness in any department of the ministry* to which more than half my life has been devoted, I put these considerations aside; and, that the Bishops may discharge what they think due to the Church and to their own consciences, I *request of them such an act of dicipline as in their judgment is proper.*"

The third letter is a formal request that the Bishops would accept the resignation of the diocese, which requires no remark, as the propriety of their doing so is not a matter of controversy.

I have made the foregoing extracts from the pamphlet of the "member of the Church" himself, relying with entire confidence on their correctness. And now let us consider, on the whole, what was the real extent of "the confession," which the language of the canon demanded, and Bishop H. U. Onderdonk had thus supplied, as the basis on which the House of Bishops were to proceed.

By his own statement, he had been for sixteen years suffering under a malady for which he used the dangerous palliative of ardent spirits, in large quantities, as a remedy. He does not, indeed, mention the name nor the quantity of this supposed remedy, but he refers to the charges of his clergy, the public reports, the Episcopal Recorder and the Southern Churchman, so that no doubt on that point could be entertained.

By his own statement, "most of the presbyters" of the diocese were turned against him. "Public sentiment" was all against him. "Unfavorable imputations upon his own character and upon the Church"

are admitted by him, as also "the strength and apparent justness" of those imputations, and "the extent to which they had been propagated." He acknowledges that "the developments of public sentiment, the communications of valued friends, and his own reflections, had made him painfully aware" that his course had "brought upon him, with too much apparent reason, the charge of excess." What could be extracted from all this but the plain result which the constant use of ardent spirits, for sixteen years, under the notion of a remedy for disease, must naturally have occasioned? namely, the disgust of his own clergy, the voice of public reproach, the scandal to his office and to the Church, which he was solemnly bound to edify by his example.

By his own statement, the "public reprobation" was so wide as to render "his resignation of the diocese inevitable," and "almost to annihilate his prospect of usefulness in any department of the ministry." And at his own request the House of Bishops are required to pass "such act of discipline as they may think due to the Church and their own consciences."

On this confession, the Bishops proceeded to pronounce the sentence. They might have *admonished* him; which would assuredly, in my humble judgment, have raised a shout of derision from all the enemies of the Church, and have forced her true friends to hang down their heads with shame and mortification, that the solemn exercise of her highest discipline, called for by the delinquent himself, should end in such a mockery of all serious censure.

They might have *deposed* him; and if they had, although some men might have accused them of excessive severity, yet I am by no means ready to admit that any one would have had a just reason to complain.

But they did neither; preferring the middle course, and *suspending* him indefinitely from his office, leaving him still in possession of his episcopal title. The sentence, in its substantial operation, was adopted on the suggestion of his own personal friends. It was, at least so far as the office of Bishop was concerned, *entirely unanimous*. And I have the satisfaction of claiming for it the rare merit of being perfectly free from the too common reproach of party feeling. For myself, I had neither the honor nor the responsibility of being one of the leaders on the occasion. I gave my ready assent, however, to the arrangement proposed by my brethren, and thought it then, as I think it now, entirely safe from any rational or legal objection.

Nevertheless the learned "member of the Church" assails it on several grounds. And to these I have now to invite my readers' attention.

1. His first objection is, that the ground stated in the sentence is not in the precise words of the Canon. For the Canon saith, that "if any Bishop shall make to the House of Bishops a written acknowledgment of his unworthiness or criminality in any particular, the House of Bishops may proceed without trial to admonish, suspend or depose him." Whereas the sentence only declares that he had "acknowledged himself the cause of reproach and injury to the Church, and had submitted himself to the judgment of the House of Bishops." And now where is the discrepancy? Is it not "unworthiness or criminality" in a Bishop to be the cause of reproach and injury to the Church? Our assailant finds fault because such an acknowledgment *might have been* made without any moral fault, or verbally, or to a third person instead of to the House. Or, in other words, the Bishops *might be* supposed to have just united in the passing of the Canon to meet this very case, and then to have acted in direct opposition to its meaning! But this is strange reasoning to a legal mind. The settled maxim of the law is to presume all things to have been rightly done, by a tribunal which has the proper jurisdiction. The statement which our assailant objects to, might have been altogether omitted, and yet the sentence would have stood firm; for no court of justice is bound to set forth the words of the law under which it acts, and all the *presumptions* must be in favor of the record. If the Bishops had merely stated that "in the case of the Right Reverend Henry U. Onderdonk, D. D., the House decreed as follows," &c., it would have been enough. As it stands, there is nothing which can be deemed *a variance* from the Canon, and therefore there is not the slightest legal ground for this most unprofessional objection.

The next topic of assault is, "that the sentence is an indefinite suspension, without limit of term or time, and without any condition or contingency whatever, by the performance or happening of which it could in any event be determined; and yet it was not a sentence of deposition." And such a sentence, our accuser pronounces to be "without warrant of law either abroad or at home, and void by the principles of true Protestantism as well as of law, from its liability to be abused to purposes of oppression and persecution."

These are strong words, but happily they have been written with very little of the usual care and judgment of the respected author. In order, however, to understand the subject rightly, I must request my readers to remember that our Church does not profess to derive the *powers* of her bishops from the action of the Church, but from the apostles. Our own canons, being passed with our official assent, do certainly bind us in the exercise of those powers ; but the powers themselves are inherent in the office of a bishop, and existed long before the enactment of any Canon whatever, being the very same, in their true intent and character, which St. Paul conferred on Titus, the first bishop of Crete, and Timothy, the first bishop of Ephesus.

Elsewhere, I have had occasion to illustrate my meaning by an analogy which perhaps may be useful to those who have not hitherto reflected much upon the subject. I consider the derived apostolic power of the bishop as bearing the same relation to the canons of the Church, that the stream of water bears to the channel through which it flows. The water is the *power* derived from the apostolic fountain. The channel is the *rule established by the canons.* The first is divine; the second is human. No canon, therefore, can *create* any really episcopal power, because that is the gift of God, through Christ. "As my Father hath sent me," saith our Lord to the apostles, "so send I you." And as the apostles derived from the great Redeemer their permanent authority to ordain and administer the discipline of the Church, so they perpetuated these powers to their successors, in order that the Saviour's promise might be fulfilled : "Lo, I am with you always, even to the end of the world."

Hence I consider it a radical and very serious error, in any intelligent Episcopalian, to assume that our canons *give power* to the bishops, because it destroys at once the whole foundation of the divine institution. The Church cannot create the apostolic office, nor the episcopal office ; any more than she can create a sacrament, or enlarge or diminish the doctrines of a saving faith. All these are already provided for us in the word of God, and the Church is bound to receive them on His authority. Hence the canons can do no more than *regulate the mode or form* in which the power shall be exercised, just as the channel cannot *create* the water, although it *regulates* the course in which it flows. And therefore we trace all our official powers to the Scriptures first, and next to the primitive Church of the early

ages; and hold ourselves strictly authorized to do any act which was then lawful to be done, provided there be no canonical obstacle of our own, in the way to prevent it.

I maintain, therefore, as an obvious corollary from this fundamental principle, that in the year 1844, we had a right to use the term *Suspension*, with all the latitude of the primitive Church, because it was not until three years later, namely, in 1847, that we consented to any restriction of time or terms, which should, in all future cases, be canonically affixed to it. The position of the question may be made quite clear to a legal mind by saying, that the Bishops, in the sentence which they decreed, stood upon the COMMON LAW of the Church—the old Catholic, primitive rule, *whereof the memory of man runneth not to the contrary*—before the statute was enacted which required a specific limitation. That Common Law might have become dormant, but it was not dead nor lost, because the records of its application remained, and are indelible. And there was no rule, principle nor analogy within the range of human knowledge, which forbade us to take it as a warrant for our decision.

I proceed, in the next place, to the positive proof that the bishops, in the early ages, used a large latitude in this sentence of *Suspension*. And here I quote Bingham's well-known work on the Antiquities of the Christian Church, Book XVII, Ch. 4, § 1. "Besides these more general and usual ways of punishing the offending clergy," saith this author, "there were also some less noted and uncommon ways of censuring them, which it will not be amiss to observe, whilst we are upon this subject. Among these, we may reckon that sort of *suspension*, which deprived them entirely of the exercise of their office, and yet allowed them to retain their title and dignity. This was a sort of *middle way* between a *temporary suspension* and a *perpetual degradation*: for they were still allowed to communicate among the clergy, and not entirely reduced to the communion of laymen." A large list of cases is enumerated by Bingham, of which I shall only specify one, because it was the work of the bishops in the famous General Council of Nice, where Meletius was suspended in such a form that "he might retain the bare name and honor of a bishop, but never after officiate in his own Church, nor in any other."

Thus then, we see that there was, in the best ages of the Church, a kind of suspension which was "without limit of term or time, and with-

out any condition or contingency whatever, by the performanee or happening of which it could in any event be determined, and which yet was not a sentence of deposition." In the words of Bingham, there was "a sort of middle way between a *temporary suspension* and a *perpetual degradation*." This way the House of Bishops chose to pnrsue, and they had the unquestionable power and right to follow it. And when our astute assailant asserts that such a sentence was "without warrant of law, either abroad or at home, and void by all true principles of Protestantism as well as of law," I merely reply that I have proved him to be, for once in his life at least, entirely mistaken.

The notion which seems to have been floating in the mind of our accomplished aeeuser, that we were bound in this matter to tie ourselves to the practice of our venerable mother-Church of England, is not set forth in terms; and I am glad, for the sake of his own legal character, that it was left in the mist of insinuation. For no man can be better informed than himself of the well settled rule, that the law of England bound the Colonies no farther than they had seen fit to adopt it for themselves, as being applieable to their circumstances. On this only *legal* ground, it is perfeetly manifest that our Church, though once part and parcel of the Chureh of England, as the Colonies were once part and pareel of the empire of England, was never bound by her eeclesiastical law at all, because it never was applicable to the circumstanees of the colonies, nor was it ever adopted, established or administered amongst them. But had it been otherwise, what would it have availed in the case of a bishop, for which the English ecclesiastical law provides no discipline whatever? Or what would it have availed after the Revolution, when our Church was furnished with independent bishops, and took the reins of government into her own hands?

As to the remark of our aecuser, that sueh a sentence of indefinite suspension is "void by the true principles of Protestantism as well as of law, from its liability to be abused to purposes of oppression and persecution," I suppose it must be intended for a rhetorical flourish, beeause I have not been able to extract from it a single particle of real meaning. I have proved already that the sentenee pronounced upon the Right Reverend Henry U. Onderdonk, was justified by the highest authority in the primitive Church, namely, the first General Council of Niee. And how is that sentenee *void by the true principles of*

*Protestantism*, adopted by our English Reformers, when every intelligent Episcopalian knows that their great guide, in their whole work, was the primitive Church, in the very age from which we took our precedent? That they intended to apply the same principle to their ecclesiastical law is certain from the fact that thirty learned divines and Canonists, with Cranmer at their head, prepared the *Reformatio Legum*, for the avowed purpose of restoring as much as possible of the ancient discipline. That good design, indeed, failed by the untimely death of Edward VI., and the whole important subject was left in a state which no reflecting Churchman in England itself would recommend as a model for imitation. But the Prayer Book of our Mother Church, in the opening address of the commination office, still records her reverence for "the godly discipline of the Primitive Church," and her clergy are directed to publish, on the first day of every Lent, her wish that "the said discipline may be restored again." What therefore, could possibly delude our assailant into the notion that a sentence of indefinite suspension, taken from the precedents of the Primitive Church, was *void by the true principles of Protestantism?*

And the other portion of his rebuke is equally unaccountable. For how is it *void by the principles of law?* I have proved it to be in accordance with the highest model of Church discipline in the great Council of Nice. Has he shown, or can he find, a better authority? But he gravely assures us that it is "liable to be abused to purposes of oppression and persecution." When? Where? How? By what possible management or instrumentality? Truly my poor understanding has utterly failed to imagine the mode, in which the bishops of our Church should go to work for the purpose of oppressing or persecuting one of their brethren, even if it were possible that they could cherish, for a moment, so vile and unchristian a desire. I confess, therefore, that I give up the attempt to comprehend the meaning of this portentous little paragraph, in total despair. And I have called it a rhetorical flourish, for want of a more indulgent appellation; for I would not willingly charge my respected adversary with the arts so often imputed to the venal advocate, who bestows the most liberal amount of oratorical abuse, when he is most at a loss for law or testimony.

The third charge which he brings against the sentence of the Right Reverend H. U. Onderdonk is that "it is *null and void* for inflicting

a punishment beyond the warrant of the Canon, and contrary to its express provisions. The Canon authorises the House of Bishops to determine by vote, whether the said offending and confessing bishop shall be admonished, or suspended *from his office*, or be deposed: and the sentence suspended him "*from all public exercise of the offices and functions of the sacred ministry*, and in particular *from all exercise whatsoever of the office and work of a bishop in the Church of God.*"

The argument which our accuser presents against this, is substantially as follows: that by the very terms of the sentence, the functions of the ministry may be exercised *separately* from the office of a bishop, and the *private* exercise of them was not forbidden. But the Canon authorises nothing beyond the suspension from the *office of a bishop.* If then, the office of a bishop includes the other functions of the ministry, suspension from that would have suspended him from all exercise of those functions, whether public or private. And if the office of a bishop does *not* include those ministerial functions, suspension from that office cannot touch their exercise at all. Taken either way, therefore, "the sentence inflicts a punishment which the Canon does not authorise, and therefore it is null and void."

This is certainly a good specimen of legal astuteness, and it seems almost a pity that it should amount to nothing. I am bound, however, to observe, that seven of the bishops protested against that part of the sentence which suspended the subject of it from the public exercise of the ministry, and thus gave a grave sanction to the argument of our accuser. I wish him to have the full advantage of their opinion, and shall proceed to state what I hold to be the true value of the objection, according to the well-established maxims of all law, whether in Church or state.

The first question that presents itself is the real meaning of the Canon. And the great rule of construction is to give full effect to what may reasonably be supposed to have been *the intent of the Legislature.* This is gathered from the *words* of the law, the *object* of the law, and the known *history* which led to its enactment: and that only is to be taken as the true construction, which avoids absurdity, and gives a fair, just, and consistent interpretation.

Now when we apply these maxims to the Canon under consideration, it is perfectly manifest that the General Convention of 1844 could never have intended, for a moment, that a bishop suspended from

his office for any "unworthiness or criminality," should be at liberty to officiate publicly in the word or sacraments, in the house of God. For there is not the slightest difference between the bishop and the presbyter, in personal worthiness, purity, and blamelessness of character. The Church provides the same standard, in these respects, for all the ministry. And hence it is simply absurd and preposterous to suppose that the stain of intemperance, or any other moral imputation which would shock and disgust in the bishop, could be tolerated patiently in the priest or even the deacon, by any member, whether lay or clerical, who took part in the doings of our great ecclesiastical legislature.

I challenge therefore, on this point, all the adversaries of the Church, whether within or without her indulgent pale, to contradict my position. And I fearlessly assert that no construction, consistent with common sense, (which is in perfect harmony with fixed legal principles on such a question,) can be justly given to this Canon, but that which includes, in the suspension from the office of the bishop, a suspension, of necessity, from every other function of the ministry. *Ubi eadem ratio, ibi eadem lex.* This must have been the intention of the legislature, and therefore this must be the meaning of the law.

But this construction, moreover, is the only one consistent with the true meaning of the office of a bishop, if we look no farther than the mere words of the Canon. For no real theologian ever doubted that the office of a bishop includes all the inferior functions of the ministry. The principle is uniform throughout. The deacon cannot perform the office of a presbyter; but *make* him a presbyter, and he remains just as competent as he ever was, to discharge the duties of a deacon. The presbyter cannot perform the office of a bishop; but *make* him a bishop, and he continues competent to all the duties of a presbyter. Each upward degree, therefore, is *cumulative*, and embraces all that was possessed before. Hence it results, that if a presbyter be suspended, he cannot possibly be allowed to officiate as a deacon until the suspension is removed; because *the presbyter includes the deacon.* Hence, by the same rule, if a bishop is suspended, he cannot officiate either as presbyter or deacon, because *the bishop includes the whole.* The same principle appears in our Canon upon the sentence of deposition, for no man was ever so wrong-headed as to sup-

pose that a deposed *priest* was not thrust out, by that single sentence, from all the inferior functions of the ministry. In accordance with all this, we find that although, for special reasons, there were occasional exceptions to the rule in the primitive Church, yet the great Council of Chalcedon, one of the four General Councils which we acknowledge as authority, decreed, in its 29th Canon, that "*to reduce a bishop to the rank of a presbyter is* SACRILEGE."

Such then, being the plain and manifest law of the case, the next question is, Did the sentence passed on Bishop H. U. Onderdonk faithfully express the true meaning of the law, or did it, in any respect, oppose or contradict it? And here I contend that the House of Bishops stand perfectly clear of all legal exception, notwithstanding the dexterity and skill displayed by their able antagonist.

He objects, indeed, that if such be the meaning, the sentence should not have set forth the suspension from the *ministry* as well as the suspension from the *episcopate*, inasmuch as the latter, by itself, would have included both. But that is no legal objection to the validity of the sentence, if it be substantially authorised by the true meaning of the law. At worst, it is only *surplusage*, and he cannot have forgotten the legal maxim that *surplusage does not vitiate.* In the Church, however, where the Canon was new, and the whole case was new, and there was a plentiful amount of ignorance upon the general subject of ecclesiastical discipline which might lead to serious and troublesome mistakes, it was not surplusage, but wisdom to express the meaning of the sentence in terms so large and plain, that it could not be misapprehended. Here, therefore, there is not the slightest ground of just exception.

Again, however, our accuser insists that the sentence could not have suspended Bishop Onderdonk from the *ministry*, because it left him free to perform ministerial offices in *private.* But I deny the allegation *in toto.* The sentence suspended him from all *public* exercise of the ministry, and did not contain one syllable about its *private* functions. The notion, therefore, is the author's own inference, and might be very plausible if it did not involve an absurdity. For this, indeed, would have transcended the power of the House of Bishops, since there is not the least warrant for allowing the *private* discharge of those functions, while the *public* was forbidden, in the whole range of ecclesiastical history. In fact, the Church knows nothing about

sueh an officer as a *private* minister of God. The main design of her ordination serviees respects the publie duties performed before the congregation, and the private diseharge of any of them is merely *incidental*, and only predieated on the *necessity of the case*, when sickness or eaptivity authorises an oeeasional exeeption to the general rule.

If my reeollection does not deeeive me, the sentence was first prepared without the word *Public*, and it was added on the suggestion of some one among the bishops, on the ground taken by our accuser. I have not the least desire to deny him the benefit of this statement, if it will give him any satisfaction to have my admission of the faet. For myself, I have already said that I had neither the honor nor the responsibility of being a leading manager of the proceeding, nor do I know the reasons of my brethren for acceding to the addition of the word. I was well persuaded that it did not make the differenee of a grain in the real weight of the sentenee, and let it pass, so far as I was eoncerned, without any opposition. But it is eertain that no judieial sentence can be invalidated by an illegal and unneeessary *inference*. It must be understood by what is *expressed*, and not by what it may be imagined to *imply*. And sinee the implication suggested is elearly unknown to the Church, and unauthorised by any established precedent or prineiple, the word *public*, on every legal ground, must be regarded as a harmless surplusage, rather than be construed as a variance from the law. For such, as our accuser well knows, is the universal rule of construction, according to the maxim: *ut res magis valeat quam pereat*, and again, *utile per inutile non vitiatur*. And so far has this rule been carried, even under the formal strietness of English law, that although "a judgment which is entire eannot be divided, so as to make one part of it good and another part erroneous, yet if it be not an entire judgment, it may." 2 Lill. 100. And "when a judgment is partly by the eommon law, and partly by statute, the judgment by eommon law may remain and be eomplete without the other." 1 Salk., 24. The same prineiple is applied with mueh greater liberality to the verdicts of a jury, so that "where a verdict may be any ways eonstrued to make it good, it shall be so taken, and not to make it void." 2 Lill., 644, 651.

With respeet to the protest of the seven bishops, on this point of suspension from the ministry, I have very little to say. Our aeeuser is suffieiently eloquent himself upon the lamentable ignorance of bish-

ops in matters of law, to save me all trouble. But in the case before us, they are probably the more entitled to indulgence, because it is at least likely that their opinion was borrowed from his own. I do not know the fact indeed, and only state it as my conjecture, on the supposition that the author of this pamphlet is the same distinguished gentleman to whose legal judgment most of those bishops were long accustomed to look, with the utmost confidence and veneration. If the lawyer who undertakes to act as *amicus curiæ* should be careful of what he utters, how great should be the wisdom and the caution of the honored counsellor, who is regarded as *amicus ecclesiæ*.

The next ground of attack upon the sentence against the Bishop, is the statement in one of the preambles, that "whereas this House, as well by the terms of the communications of the said Right Reverend Henry Ustick Underdonk, D. D., as *by the investigation of the facts and circumstances of this case which have now been made*, is well assured," &c. And our learned accuser gravely asks, "What is the meaning of this extraordinary statement?—Can it mean that the House proceeded to *try the case* in the absence of Bishop Onderdonk and without notice to him to join in the trial? And yet what is an investigation of the facts and circumstanees of a case, then depending before the House for judgment upon an offender, if it is not a trial? But the Canon requires the unworthiness to come from the offending bishop, and limits the authority of the House to a determination of the sentence by vote, without trial. Either the investigation produced nothing to alter or affect the tenor of Bishop Onderdonk's acknowledgment, and then the sentence may be estimated in all points by that acknowledgment—or it may have produced something to aggravate or exceed the aeknowledgment, and then, as to this, he is uneonfessing, untried, and unheard; and the sentence, and the continuance of it, are as much a reproach to justice, as they are to mercy."

Here we have, truly, an interesting specimen of the exquisite art with whieh a superior mind, long trained and thoroughly aeeomplished in the work of advocacy, finds itself at last obliged, by the very force of professional habit, to deal with every subject, even when it seeks to be as fair and candid as possible. For the eminent gentleman who is supposed to have framed this objeetion was *a member of the General Convention which passed the Canon*, and was eompletely eognizant of all the doings of the House of Bishops, in relation to

the matter, from first to last. He knew perfectly well, that the House did *not* proceed to try the case, and never, for a moment, contemplated such an absurdity. And yet he could not resist the professional temptation to express a doubt and suggest a possibility which should weaken the confidence of others, although he was positively sure that there was not the slightest ground for the preposterous imputation.

I presume that it is with the same view that he assails so eloquently the established custom of the House of Bishops to close their doors against the public, as if there was no substantial difference between a *private* and a *secret* tribunal. Yet here, too, one would have expected from "a member of the Church" a very different strain. Every intelligent episcopalian knows that there is no secresy whatever enjoined or practised, with respect to the doings, the speeches or the votes of the Bishops. Their custom in this respect has grown up from mere convenience and expediency, and not a word was ever heard against it, until the work of strife and agitation found it serviceable to invent new topics of reproach.

But this is no answer to the objection, which our dextrous accuser extracts from the preamble to the sentence. "What," he asks, "is the meaning of this extraordinary statement," that the House has investigated the facts and circumstances of the case? The Canon allowed the Bishops to act only on the "*confession* of the party." I admit it. The Canon, moreover, saith, that on receiving such confession, "the House of Bishops *may* proceed *without trial.*" But this is a very different thing from enacting that they *shall* proceed without any "investigation of the facts and circumstances of the case," to which *the party himself expressly referred them*, viz: the Journal of his Convention, the charges against him, the recorded votes of his clergy, the statement of the Episcopal Recorder and the Southern Churchman, the *public* voice of crimination, the *notorious* odium existing, which, according to his own acknowledgment, *made the resignation of his diocese inevitable, and almost annihilated his prospect of usefulness in any department of the ministry.* Here were "facts and circumstances" enough, made a part of the case by the Bishop's own written communications. And it was the duty of the House of Bishops to investigate them, at least so far as to be satisfied that they were *facts*, instead of blindly taking them all for granted on the mere statement of the party, who might have made a grievous mistake

against himself, under a morbid feeling of despondency. For every man of ordinary reading and observation knows that the habits of intemperance produce, at times, a state of hypochondria, during which, the patient indulges the gloomiest notions about his circumstances, and often fancies that all the world, and even his own best friends, have turned against him. And the same diseased condition of the mind sometimes appears in cases, with which intemperance has had no apparent connexion. To this extent, then, I maintain that the Bishops were bound to go, namely, to ascertain whether the facts and circumstances to which he himself referred them were such as his own confession assumed. And if they had refused to do what he thus indicated, they would have indeed exposed themselves to just reprobation.

Thus, then, I prove that there were "facts and circumstances" to be investigated: documents, journals, periodicals containing charges, votes of the clergy, common fame, or as the bishop called it, universal *public crimination*—not facts which demanded the calling of witnesses, or the ordinary process of a trial, but yet *facts alleged by the party himself*, and requiring to be verified for his own protection. How strange the art which would fasten upon this a censure of the House of Bishops! How marvellous to an ordinary straight-forward mind the tortuous skill, however ingeniously exercised, which would destroy the sentence by the very act which should stamp it with the greater validity!

For this, in my humble judgment, was the plain aspect of the whole matter. Here was a Bishop who had been for 16 years officiating in the important diocese of Pennsylvania, with a high reputation for judgment and ability. The General Convention of 1844 was in session, every member of both Houses was currently informed that the clergy of the diocese had resolved, without distinction of party, to present him for trial, if he did not resign; and it was even said by many, that resignation might not prevent a presentment. In order to avoid this painful process, his own friends were anxious to have a canon passed, by which he might avoid all risk of trial by a *confession* on which the Bishops could act *without the scandal of a trial*, as well as a canon by which he might *resign the diocese directly to the House of Bishops*. In the propriety of this course, all concurred, and these canons were passed, as every man in both the Houses was perfectly aware, in express reference to his case. Such was the well known history of these laws, on which the Bishops acted in the manner already explained.

In availing himself of those new facilities, Bishop Henry U. Onderdonk made the written statements which I have transcribed, assigning as his reasons the *facts* that by an excessive and open use of what had first been employed as a remedy for disease, he had raised a general odium against himself, that his clergy were almost all against him, that public opinion was notoriously against him, that scandal had been brought upon the church with but too much apparent reason," that the "*public reprobation*" was "*so wide as to render his resignation inevitable, and almost to annihilate his prospect of usefulness in any department of the ministry,*" in proof of which he refers the Bishops expressly to the Journal of his Convention, to certain publications in the Episcopal Recorder and the Southern Churchman, and to common fame.

Now all these were allegations of *facts*, made by himself in his written communications. What were the Bishops to do? Take them for granted, merely because he alleged them? Or satisfy themselves by the information to which he himself referred, that they were true? Suppose they had not been true, but were the mere suggestions of his own diseased imagination. Suppose we had been assured, on every side, that he was laboring under an entire mistake, the result of deep depression of spirits: that his clergy loved and respected him; that the public pitied and revered him; that the real drift and meaning of the publications had been altogether misconstrued by his own morbid sensitiveness, and that there was no real reason existing why he should suppose that his resignation was inevitable, or that his usefulness was destroyed. I ask any man of common sense whether we should have been justified in accepting his resignation, or in passing any sentence upon him at all. But if, in such a case, we should have been bound to examine whether these *facts* to which he referred us were true, in order to *nullify* the force of his statements, were we not equally bound to examine in order to *confirm* them? Hence I maintain that the very nature of the case obliged us to "investigate the facts and circumstances" to the extent required by the terms of the confession. No farther, assuredly; nor yet by any process which he did not himself demand, nor by any kind of information which the necessity of a just decision did not plainly require. But to this extent, the House of Bishops were bound to go. And we may safely defy the ingenuity of the most accomplished jurist, to impeach us of error.

Thus much with respect to the validity of the original sentence. I come now to consider the charges which our learned accuser urges

against us, with so much ingenuity and eloquence, 1st, of *disobedience* to the canon of the General Convention, A. D. 1847, which affirmed the right of the Bishops to remit or to modify an Ecclesiastical sentence; and 2dly of cruelty, inhumanity, &c., in refusing to apply this right to the relief of Bishop Henry U. Onderdonk at three consecutive sessions of our great Ecclesiastical Legislature.

"It is a settled rule," saith our persevering censor, "in the interpretation of statutes, that where the law-maker says that a thing *may* be done by judges or officers, which it concerns either *particular justice or the public weal* to do, *may* means *shall* or *must*, and in the case of officers, they are liable to indictment for neglecting to do it." He instances the construction of an old statute which says the Sheriff *may* take bail. "Justice and the public good require that he should take it, and he is bound to take it. In such cases, permissive words are obligatory." And then he proceeds to apply this to the canons in question, one of which declares that the Bishops *may* "remit or modify a judicial sentence;" and the other, that "whenever the Penalty of suspension shall be inflicted on a Bishop, Priest or Deacon, in this church, the sentence shall specify on what terms, or at what time, said penalty shall cease." He assumes that these canons were reported as a means of *giving relief* for an asserted evil that occurred three years before, and roundly asserts that "to say this language gives the Bishops discretion to do neither" (i. e., neither to remit nor modify the sentence of Bishop H. U. Onderdonk,) "is an absurdity."

Now all this may be sufficiently ingenious, and yet I shall take the liberty of saying that the case cited has not the slightest bearing on the point in question.

Our learned accuser knows perfectly well that the *ordinary and grammatical meaning of the terms employed* is the great rule of legal construction, from which no Court will ever depart unless under the most stringent conviction of necessity. And hence the propriety of the construction put upon the old statute which declares that a sheriff *may* take bail, is vindicated by this: that the sheriff is a *ministerial* officer; that all men are entitled, of *natural right*, to life, liberty and property; and therefore, in favor of the *natural right* of liberty, the legislature was rightly presumed to have intended the sheriff to exercise a *ministerial duty*, and not an act of *judicial discretion*.

What analogy has this with the application of Bishop H. U. Onder-

donk to the House of Bishops? Is the right to be restored to office a *natural right*? Are the Bishops in the position of a *sheriff*? And is there the slightest ground for supposing that the canon which was passed *with their own consent*, (and could not have been passed without it) was intended to bear any other construction than that which is supplied by the plain and ordinary meaning of the language?

But I go farther, and say distinctly that our ingenious censor cannot support his hypothesis on his own convictions. I have said, what no lawyer will dispute, that the *only ground* on which a Court will ever depart from the ordinary, or fixed technical, meaning of the *language* of a statute, is, that the legislature must be presumed to have *intended* a different meaning. Yet in the present case, I undertake to say that *no man* can believe the House of Bishops *intended* to limit their own full and complete discretion. Nor do I hesitate to add that if the *possibility* of our author's construction had been suggested at the time, from any quarter, the Canon could never have been passed at all.

He assumes, however, that these Canons were reported as a means of *giving relief for an asserted evil that occurred three years before*: of course alluding to the sentences of indefinite or perpetual suspension passed on both the Bishops Onderdonk. And I doubt not that such was the intention of *some of the gentlemen* in the House of Clerical and Lay Delegates, who were active in the matter. But it does not quite follow from this, that such was the *intention of our whole Ecclesiastical Legislature*, in passing the Canons. That it was not the intention of the House of Bishops is certain from the fact which forms the burden of our learned adversary's accusation. For they have thrice refused to give the very relief which he says was the object of these enactments. It results, undeniably, that whatever may have been the design of certain members of the other House, the design of the Bishops was a very different one.

What then was their motive? I cannot speak for others, but as to myself, my brethren know that I had often openly, and without reserve, pressed upon the House my own conviction that our system was altogether lame and imperfect on the whole subject of Church discipline—that we, as bishops, had all the inherent powers of the primitive bishops, derived from the apostolic source—that it belonged to us of right, to act as largely on all subjects of discipline as the primitive Church

had done, in her best and purest days ; but that we could not exercise those salutary powers, as the highest judges in the church, until the necessary canons should be passed, by common consent, recognising and affirming our true authority. Hence, I was the mover, many years ago, of a resolution, to appoint a joint Committee on the whole subject of Canon law, for the declared object of approximating, as near as possible, to the primitive system, without the least regard to any man or any particular case, but on the high and consistent ground of *true Church principles.* So little, however, did the members of the joint Committee care about *that* object, that a quorum could never be gotten together.

It was not, therefore, until the cases of the Bishops Onderdonk occurred, that the apathy of the majority could be roused into any effort upon the matter. With a view to these cases, they were ready to open their eyes to certain defects which were manifest enough before, but about which they would not trouble themselves until they were connected with a personal issue. And hence it was, that the measures which, in the lower House, did probably owe their birth entirely to this personal feeling, were accepted by the House of Bishops because they were *so much gained for the righteous cause of true Church principle*, assuring to the highest judges in the Church an important part of their proper office, to which they were always entitled, but which they could not undertake to exercise until the passage of the Canon.

Thus then, I have shown the intent of our branch of the Legislature. I have also proved that the object which our learned adversary assumes to have been contemplated by the Committee who reported the Canon, however it may have been precisely as he supposes, was not *our object*, but the contrary ; because we declined to meddle with the very case when the application was brought before us. Hence, it was manifestly *not* the *intent* of the whole General Convention. And yet, unless it were obviously the intent and the *sole intent*, his supposed right and duty of construing *may* so as to mean *must* and *shall*, falls to the ground as a *real* absurdity.

The remark which our accuser introduces in connection with this topic, is neither just nor fair. "I heard an eminent layman," saith he, " of great experience say on the floor of the House of Deputies, " I caution the members of this House to look well to the terms of the authority which they propose to give to the House of Bishops. They may

depend upon it, that whatever power they may give away, they will never get any of it back again."

Now I have only to observe, as to the *experience* of this eminent layman, that neither he nor any other man in our American branch of the Church had, or could possibly have, any experience at all upon the subject. It is for that very reason that we must look to the ancient Church for our principles, if we would be safe, instead of blundering on in the blind path of modern experiment. In itself, the whole range of Church discipline is a very old matter, though it is new to the minds of men, otherwise learned and experienced enough, but profoundly ignorant of the first elements of ecclesiastical history, with respect to the inseparable union of discipline with the proper powers of the episcopal office. The Bishops do not ask any of those powers to be *given* to them. The House of Deputies might as well talk of giving us our power of ordination. Both these powers are *inherent in the office itself.* Both are equally specified in the epistles of Saint Paul to Timothy and Titus. Both were equally claimed and exercised by the bishops of the primitive Church, anterior to any Canons. Both have been and may be the subject of Canonical *regulation*, with our own consent, as an essential branch of the ecclesiastical legislature. But the powers themselves are the *gift and ordinance of God.* And as men have no authority to give them, so neither have they any right to take away.

Up to the mark, therefore, of original and primitive duty, I have always maintained and shall always maintain that the exercise of discipline stands upon the same ground with that of ordination. The practical ignorance of our Church at large upon the one subject, while they are so well informed upon the other, arises from the fact, that the Church of Rome introduced the custom of Bishops delegating the work of discipline to *commissaries*, instead of discharging it themselves. This pernicious innovation was naturally perpetuated in our mother Church of England. Thus we see a *layman*, Sir Herbert Jenner Fust, sitting as judge in the Archiepiscopal Court of Canterbury in a cause of *doctrine*, a priest being party on the one side, and a Bishop on the other. And the final decision on appeal is settled by another set of royal commissaries, the judgment of one layman being overruled by the judgment of other laymen! Our venerable mother has heard enough of this incongruity, and so have we. But she cannot rectify the glaring abuse, except by going back, as I trust she will, to the only true and primitive system.

No one values more highly than I do, the functions of the laity in our Church. No one is disposed to contend more strenuously for their rights, as a component part of our legislative action. But in the administration of ecclesiastical discipline, the divine Lawgiver, through the apostles, laid down the rules of obligation, from which we, as bishops, have *no right to depart*. As yet, the Church at large throughout our country is only beginning to awake to the importance and necessity of correct views upon the subject. As yet, our duties with regard to it are but very imperfectly understood or appreciated. As yet, the practical aspect of episcopal discipline is far from the line of *principle*. The "eminent layman of great experience" need not be at all uneasy about *giving* the bishops too much power. They do not want, by a great deal, as much as they are entitled to claim; and will certainly exercise no portion of their official rights without the canonical sanction of their brethren. Very few among them will ever be likely to do even as much as the law of the Church allows. Because the whole exercise of discipline is painful, troublesome and thankless, and the attempt to perform it is too much for the energy and zeal of most men. The duty, even when accomplished, is sure to be pursued with the lash of vituperation and abuse. It cannot possibly prove, to any man, the road to popularity, honor or influence; and he that will fearlessly and honestly undertake to carry it through, can only do it from the force of conscience, and must look beyond this world for his reward.

I proceed, now, to my final topic, viz. the charge which our assailant makes on the House of Bishops, because they have not chosen, for three consecutive sessions of the General Convention, to touch the sentence against Bishop H. U. Onderdonk. And in order to approach this point with a proper measure of Christian intelligence, let me ask the attention of my readers to the fundamental questions: What is the office of a Bishop in the Church of God, and on what ground are we justified in conferring or restoring it?

And in the first place, I shall briefly state what this office is *not*.

It is not a thing of *natural right*, as the right to enjoy life, liberty, or property, on which the laws of earth hold their proper operation. For, if it were, all men would be equally possessed of it, and none could have a greater or a less claim than his fellows.

It is not a general right even of religious privilege, such as the common right of all Christian believers to Baptism, Confirmation, and the Eucharist, as members of the Church of God. For to these likewise,

all men are equally entitled; and spiritual life, spiritual liberty, and spiritual property are thus guaranteed to every soul without distinction, by the terms of the Gospel.

But it is rather an office of high and special *Trust*, conferred on the individual, not for his own sake, but for the sake of others—not for his personal profit, power or honor, but for the edification of the Church of Christ. Hence St. Paul speaks of the Gospel being *committed to his trust*. (1 Tim. 1, 11.) And he calls the apostles, *stewards* of the mysteries of God, of whom it is required that they be faithful. (1. Cor. 4, 1-2.) Hence too, he lays down the principle that "no man taketh this honor to himself, but he that is called of God, as was Aaron;" (Heb. 5, 4,) and, in reference to his own case, he saith, "Necessity is laid upon me. Yea, woe is unto me if I preach not the Gospel." (1. Cor. 9, 16.)

In precise harmony with all this, the Church may not presume to ordain any man, even to the lower functions of the ministry, unless he is believed to have received a spiritual call. For the first question in the ordinal of the Diaconate is this: "Do you trust that you are inwardly moved by the Holy Ghost to take upon you this office and ministration, *to serve God for the promotion of his glory and the edifying of his people?*" And the candidate answers, I TRUST so. Besides this, he must bring satisfactory credentials, proving that in the judgment of other Christians who know his character, as well as in that of one presbyter, at least, he is believed to be worthy to enter the sacred order. From all which it is perfectly manifest that *the Glory of God and the edifying of the Church* are the great objects in view, and that the honor, profit and gratification of the individual concerned are no parts of the solemn transaction.

The primitive Church, accordingly, guarded the avenues to the ministry with especial care, excluding from the sacred office all persons who had previously followed disreputable professions, and especially all who had ever been subjected to *public penance* for sin; believing rightly that the stain on their characters produced from these causes would adhere to them through life, in the general feeling of the community; and therefore, however pious and sincere they might be, they could not benefit the Church nor honor the Gospel, in their public ministry. I quote the following statement in relation to this point from the learned Bingham's work on the antiquities of the Christian Church, (*B.* IV. *Ch.* III. § 6, *Lond. Ed. of* 1848, *v.* 1. *p.* 467.)

"The strictness of examination as to men's morals," saith the author, "will appear further from this, that the commission of any scandalous crime, for which a man was obliged to do penance in the Church, did forever after, according to the rules and discipline of those times, render that person incapable of holy orders. For though they granted pardon and absolution and lay-communion, to all offenders that submitted to the discipline of public penance, yet they thought it not proper to admit such to clerical dignities, but excluded them from the orders and promotions of the Church. The practice of the African Churches is evident from the 4th Council of Carthage, which decrees that no penitent should be ordained, though he was a good man at present. And if any such was ordained by the bishops' ignorance, not knowing his character, he should be deposed because he did not declare that he had been a penitent at the time of his ordination. But this is always to be understood of public penitence, not of private :—for it was only that penitence which left some *public mark of disgrace upon men*, which disqualified them for the orders of the Church."

These rules were not only founded in the very nature and design of the Gospel ministry, but were expressly provided for, in substance, by the precept of St. Paul to Timothy, (1. Tim. 3.7.) where he lays down the qualities of a bishop or presbyter, saying, that "he must have a good report of them which are without ; lest he fall into reproach and the snare of the devil." For Satan has no snare in which the souls of men are so easily caught, as the reproach brought upon religion by the ungodly character of the ministry. And hence it is that the Church never allows ordination in private, but only authorizes the solemn act in the public congregation. And before the Deacon or the Priest can be ordained, she farther directs an open appeal to the people, who are told to "come forth in the name of God," if they or any of them, "know any impediment or notable crime for the which he ought not to be admitted" to that office, and "shew what the crime or impediment is."

But all this care and caution is carried to its highest point in the case of a bishop. For he must be freely elected by the votes of the clergy of the diocese, confirmed by the laity, and further approved by the majority of the whole Church, either in General Convention, or acting by the Standing Committees of the several dioceses, as well as by the other bishops. And the last clause of the testimonial which our Canons require from the diocese electing him, is in these emphatic words :

"We do, moreover, jointly and severally declare, that we do in our consciences believe him to be of such sufficiency in good learning, such soundness in the faith, and of such virtuous and pure manners and godly conversation, that he is apt and meet to exercise the office of a Bishop, *to the honor of God and the edifying of his Church*, and to be a *wholesome example to the flock of Christ*."

The same principle meets us again in the Consecration service, where the question is put to the Bishop elect; "Will you deny all ungodliness and worldly lusts, and live soberly, righteously and godly in this present world; that you may *show yourself in all things an example of good works unto others, that the adversary may be ashamed, having nothing to say against you*?"

And to this, the answer is made, with all the force of a solemn vow to God and His Church, "I will so do, the Lord being my helper."

It would be easy to fill a volume with similar proofs that such is the true character of the episcopal office. But I am not writing a regular treatise on the Christian ministry, and therefore I shall rest the testimony here, as amply sufficient to demonstrate the main proposition. For I have shown from St. Paul that the Bishop is a *Trustee;* as the Gospel is committed to him *in trust:* that he is a *steward*, which is also an office of trust; that therefore he does not presume to take this honor to himself, but must be *called of God*, as was Aaron: that *necessity* is laid upon him for that very reason, and woe be unto him if, being so called, he does not preach the Gospel.

I have further shown that the primitive Church excluded from the ministry all persons who had once been under evil repute as public penitents, in accordance with the same apostle's command, that a Bishop must have "a good report of those which are without, lest he fall into reproach and the snare of the devil."

Thirdly, I have shown with what admirable care and fidelity our own faithful and truly apostolic system has carried out the principle, by requiring the deacon to be one who trusts that he is moved by the Holy Ghost to take upon him the sacred office, to *serve God for the promotion of his glory and the edifying of his people*, besides further demanding positive written testimonials, and the public acquiescence of the congregation. And lastly, I have shown that in the case of a Bishop, we must have the fullest possible testimony that he is apt and meet to exercise his office *to the honor of God and the edifying of his*

*Church*, as a wholesome example to the flock of Christ, with the further security of a *solemn vow*, that he will "deny ungodliness and worldly lusts, and live soberly, righteously and godly in this present world."

Such then, being the true character of the Bishop's office,—not a temporal estate in fee simple, nor a possession or property of personal right, nor yet an individual privilege for his own sake, like the ordinary and universal membership in the body of Christ granted to all his people, but a high, special TRUST AND STEWARDSHIP, conferred by an inward and divine call, *for the glory of God and the edifying of his Church*,—we have here, and here only, the true basis on which we have a right to confer that awful office, in the *laying on of hands*, or the solemn act of consecration. On no other principles in the world can we lawfully consecrate at all. No other conceivable theory will justify us. And if we do not confer the office on this ground, we commit an act of presumptuous profanation.

But we may be deceived. The candidate may be himself deceived. The diocese electing him may be deceived. A man may be chosen, approved and consecrated, who does not keep but violates his vow, who does not promote the glory of God but brings disgrace upon the Gospel, who does not guard but betrays his trust, who does not edify the Church, but fills it with disgust, and shame, and sorrow. What is to be done? The Lord has provided discipline for the evil. The offender acknowledges his grievous fault, resigns his stewardship, and asks his sentence from the Bishops. His title is not taken from him. His personal privileges are not touched by excommunication. He is allowed to use all the individual means of grace. But he is suspended without limit from the office which he had abused, and he retires from his public rank into the privacy of penitence and humiliation.

Such, in the year 1844, was the position of Bishop H. U. Onderdonk. Three years elapse, and he seeks to be restored to the active exercise of the office again. The application is denied. It is renewed at two subsequent meetings of the General Convention, and is still denied. The Bishops are sharply rebuked and censured for these refusals, and now the question presents itself, On what principles have we a *right* to restore him?

I reply confidently, and challenge all the lawyers and doctors in the Church to gainsay my answer: ON THE SAME PRINCIPLES WHICH AU-

THORISED HIS CONSECRATION. There are no others applicable. We know no others on which we can be justified before God and man.

For I deny, most distinctly and emphatically, that the question is anything more or less than a question of *right*. And here I should seem to agree with our ingenious adversary, whereas I differ from him altogether. He argues that the suspended Bishop has *a right* to be restored, and I contend that he has no such right on any ground whatever. This I shall proceed to prove in the first place, and then I shall shew the real *rule of right* which must regulate our action.

No one will pretend that Bishop H. U. Onderdonk had any original right to be called to the episcopate, beyond his brethren. The Lord had a right to select whom He would designate. The Convention had a right to elect him. The Church had a right to express their approbation, and believing all to have been done which the established principles required, he was consecrated to be a Bishop. And what kind of a Bishop? I answer: The *assistant Bishop of Pennsylvania*, with the privilege of becoming the *diocesan* at the death of Bishop White. In that office he then obtained a *vested right*. He was never consecrated to any other. But that vested right was a *Trust*. He received it *on conditions*, sealed on his part by the most solemn vows which can pass the lips of mortal. Those vows were broken. That Trust was violated. He resigned his diocese, and gave up his stewardship. The *vested right was forfeited and gone*, and he was suspended, without limitation, from the future exercise of the episcopal office, under any form or circumstance whatever.

Hence, *his rights* are annihilated; and nothing remains to the eyes of the Church, but the empty honor of the title. *Stat nominis umbra.*

To what then can he be *restored?* Not to his diocese certainly, for that he resigned, and it is in possession of another. Not to the office of *a bishop at large*, for that was not the office which was conferred upon him at the beginning, and THE CHURCH HAS NO POWER NOR RIGHT TO CONFER IT UPON ANY MAN, directly or indirectly. An unforeseen accident may bring a Bishop into this position, as was the case of Bishop Chase, when he resigned the diocese of Ohio, and is the case of Bishop Southgate now, since the discontinuance of his mission to Constantinople. But these cases are altogether distinct from that of Bishop H. U. Onderdonk. And therefore, if we should restore him,

we should place him in the very office of which the Church has never approved, and which we cannot bestow, even if we were willing.

But he is still a bishop, inasmuch as he was not deposed. I grant it, and therefore about that point there is no controversy. He is a bishop, just as truly as the man mentioned in the Gospel, who had the palsy, was still a man. And yet it does not follow that we can presume to say to him, "Rise up and walk." That right has no warrant in the episcopal commission. It has never been conferred on us, and I doubt whether the attempt to exercise it would not come very near to a positive act of sacrilege.

For the restoration of this suspended Bishop is only lawful, as I have said, upon the same principles as his consecration. We are but *Trustees*. We have no arbitrary power in the matter. The rules are all laid down, and we may not presume to violate our solemn trust, as if we had a right to grant or restore the episcopal function at our mere will and pleasure.

And this brings me to the question of the *right*, not of Bishop H. U. Onderdonk to be restored, which I trust is sufficiently considered, but *of ourselves to restore him*. This right I pronounce to be precisely the same as the original right to consecrate him.

Could the bishops have conferred the office at first, if he had not been elected, if the canonical testimonials had not been regularly signed, if the House of Deputies had not approved them by a formal vote, or the standing Committees of the dioceses instead of them, if the majority of the bishops had not added their attestation, and above all, if he had not "a good report of them that were without," as a man of fair and unstained character, so that on the whole, it might be believed that he was "called of God, as was Aaron," and that he would discharge his solemn and responsible trust, *to the honor of God and the edifying of the Church*, according to the vows of his consecration? Manifestly all this was necessary before the bishops could *have a right to consecrate him at all*. They are but *trustees* of God and the Church, and they have no lawful right or authority whatever to exceed their allotted bounds, or lavish their divine Master's gifts as if they were their own private property.

Now have we a right to *restore him* on any other principles? We have the legal *power* beyond question, but *power* is one thing, and *right* is another, and the question of right is the only question which we have to settle.

In determining this point, we have not, as in the case of consecration, a set of fixed and established guards upon our action. The whole matter is left to our *discretion*. But this is not a wild or arbitrary discretion, to be exercised at the call of personal favor, or personal feeling, or personal fear. For we are *Trustees of God and the Church* in the one case as much as in the other; and must be guided, if not by the same *forms*, yet certainly by the same *principles*.

The application is based on three grounds: First, that the General Convention has expressed its will by the passage of the Canons of 1847, and that our refusal to restore Bishop H. U. Onderdonk is an act of disobedience to that body. I have fully shown the entire mistake of that whole argument, and need not recur to it here.

Secondly, that he is a penitent and reformed man, which I am glad to accept as true. The question then arises, would penitence and reformation give us a right, *per se*, to consecrate a bishop at first? For I maintain that we, as *Trustees for God and the Church*, must have the same elements in the work of restoration, that we have in the work of consecration, since both acts produce precisely the *same practical result to the Church*, viz., the enabling an individual to execute the office of a bishop who could not execute it before.

Now it is simply preposterous to say that penitence and reformation give any man a claim to exercise the office of a bishop, because they are the duty of *every private Christian at the peril of his own soul*. But it is argued that *mercy* demands his restoration on the ground that intemperance was the cause of his fall, and therefore, when the *cause* is removed, the *effect* should be removed also, so far as it is in our power.

This is the popular aspect of the case, because it appeals to our feelings. The error of the argument lies in the confounding our right to act in the *restoration to office*, with our allowance to enjoy the common privileges of the Church which are the general heritage of all other Christians, and are properly the objects of mercy. But these are matters perfectly distinct in their own nature, and it is easy to shew this distinction by a plain secular analogy.

In order to place the principle in the clearest light, let us suppose, for example, that a man is appointed to the office of Post Master General, which is an office of *trust* under the United States. He becomes a defaulter by robbing the mail. He loses his office, and, under the sentence of the law, is cast into prison. He conducts him-

self with propriety, sympathy is awakened for his sufferings, and the *mercy of the Executive* is invoked in his favor. The President pardons him accordingly, and he is set free from the sentence. But does that restore him to his *Office?* Not at all. And if any man were to contend that the exercise of *mercy* should have this effect, he would be laughed at as a fool throughout the whole community.

Now let us apply this analogy to the case before us. The House of Bishops might have sentenced Bishop H. U. Onderdonk to stand *suspended from the Communion*, or have *excommunicated him* altogether. And in that event, he would have been deprived of the *common right* of all Christians, as the man consigned to prison is deprived of liberty, the *common right* of all citizens. Then, there would have been a proper ground for the exercise of *mercy*. For after the Bishops were satisfied that he was penitent and reformed, they should take off the suspension from Communion, or the sentence of Excommunication as the case might be; and thus restore him to the enjoyment of the *common right of Christian liberty*. But that would not be a restoration *to office*, with which *mercy*, either in Church or State, has nothing to do.

In point of fact, however, the House of Bishops did not inflict on Bishop H. U. Onderdonk any sentence which touched his general Christian privileges at all. He resigned his Trust, as the diocesan of Pennsylvania. They suspended him without limit, from the exercise of his office in any other form. But they did not suspend him from Communion, and therefore there was nothing in his case on which this principle of mercy could operate. Hence, the whole of this favorite part of the appeal is founded upon a gross and total misconception, which, if it were applied to earthly officers, would only provoke a smile of derision or contempt.

For, in the hypothetical case of the defaulting Post Master General, let us suppose that the man resigned his office, that his friends made good the loss to the public treasury, and that he was so mercifully treated as not to have been prosecuted nor sentenced to prison at all. Would any one be so silly as to claim a further exercise of *mercy*, by applying to have him *reinstated in his office*? Would any one undertake to say to the President: "The man is very sorry for his fault, and is now, and has been for many years, perfectly honest and trustworthy. And therefore you must restore him to the same *office*, or to one as near to it as possible, and if you do not, you shall be denounced as unjust, cruel, and totally wanting in the exer-

cise of that *mercy*, which it is your own official duty to administer." But suppose such an effort were made, and obstinately persevered in, and that the President, alarmed at the threat, should yield to importunity, and put the old defaulter into a public trust again! Would not the whole country ring with complaints against his weakness or his partiality? While, if, on the contrary, he should rebuke his audacious censors, and say: "No! I am bound to dispense offices for the public good, as the *Trustee of the American People*, and never will I consent that he who has once acknowledged himself to be a public defaulter shall be put into a public office again!" Would not such language be approved, as worthy of the chief magistrate of the Union; and be accepted as the declaration of *right principle*, by the common sense and justice of the whole nation?

Now such, precisely, as near as any earthly analogy can go, is the position of the House of Bishops, with regard to the application of Bishop H. U. Onderdonk. The principle of mercy has nothing to do with it, because he was so mercifully dealt with at the first, that his individual Christian privileges, and even his honorary title, were left in their full integrity. Nothing was touched, but the exercise of his office; and with the *gift or the restoration to office*, as I have shown, *mercy has nothing to do.* For mercy concerns the individual, while office concerns the Church; and no mind which is capable of reasoning, and is not totally warped by feeling or prejudice, will ever confound them together.

Hence I hold that no conceivable aspect of the case can ever arise, in which the Bishops can have the same right to restore this suspended brother, that they had originally to consecrate him. For 1st, he can never stand before the Church with a fair and unstained character, "having a good report of them that are without." We hear enough of the good opinion of his personal friends, and I am glad to believe it correct; but they have received no warrant to represent the feelings of the whole community of the Church, from Maine to Oregon, nor of those who are "without" our own pale, to whom the scandal of his fall is known, and who cannot testify their confidence in his recovery.

2d. The evil done by his example cannot be repaired, and the bringing him out again before the public gaze would only revive its memory. Better by far, that it should be forgotten, as soon as possible. *Requiescat in pace!*

3d. It is totally absurd to suppose that he can ever come before us with the testimony of the Church in his favor, and yet, without that testimony, the Bishops could not have consecrated him in the beginning. How, without an equal, or rather, I should say, *a much stronger testimony*, could we restore him now? For it is evident that it needs more evidence to countervail the past stain upon his character, than it needed at first to recommend him to confidence, when no *trust* had been violated, and no *solemn vows* had been broken.

Here, however, our accuser points to what he considers an unanimous vote of the Convention of Pennsylvania, recommending his restoration, and even claims the subsequent action of that body, in laying a counter resolution on the table, as equivalent to a ratification of the first! But it is idle to call this such testimony as the Church demands for the consecration of a Bishop. For in that case, it is not a vote, passed silently at the close of a Convention, and under the request that there might be no discussion, which must be laid before the Bishops; but it is a *written document*, asserting that the parties "believe in their conscience" that the person elected "is apt and meet to exercise the office of a Bishop *to the honor of God and the edifying of the Church*, and to be a *wholesome example to the flock of Christ*," and this document must be *signed* by the names of a majority of the Convention, which must itself consist of a certain majority of all the clergy and the parishes belonging to the diocese. And the sufficiency of the candidate must again be certified in *another document*, subscribed by a majority of the House of Deputies, or by the Standing Committees throughout the Union. Shall the House of Bishops be obliged to require all this solemn and precise evidence in the case of a man who is yet unstained, and are they to be satisfied, in the much more responsible work of restoring a suspended Bishop, with the mere silent and formal vote of the diocese of Pennsylvania?

But even this is not the whole difficulty, although it is much more than sufficient. For at the session of the same General Convention, when the application to restore him was brought forward on the strength of that vote, the Bishop of Pennsylvania *declined* to express any judgment upon the subject; and the delegates from that same diocese assured us that the majority of the Convention were *opposed* in sentiment to the resolution which had been formally adopted, that his restoration would be altogether unacceptable, and that the only reason

why they had not said so at the time, was because the Convention was just ready to adjourn, and they suffered the motion, which came upon them entirely by surprise, to pass silently, without voting at all, rather than open up a new and painful discussion. It is not on such testimony as this, that the House of Bishops are at liberty to act upon the very serious duty of conferring or restoring the episcopal office.

It is true, however, that the subsequent Convention of Pennsylvania laid upon the table a counter resolution. But that decided nothing. The General Convention had held its session during the interval. The House of Bishops had refused to restore the suspended Bishop. And if it had been really the wish of Pennsylvania to see him restored, then was the very time to have spoken out upon the subject. Instead of this, they dismissed the whole matter, and have never since recurred to it; a proof in the negative, so plain, that the lawyer who undertakes to convert it into a decisive testimony in favor of Bishop H. U. Onderdonk, can only be matched by the professors of the ancient Alchemy, whose art pretended to change the basest metal into gold.

Thus, then, I have shown that the House of Bishops have *no right* to restore their suspended brother, from the effect of the sentence which he brought upon his own head. *Power*, under the Canon, they have. *Right*, under the whole system most wisely derived from the Scriptures and the primitive Church, they have not. Hitherto, they have done their duty in refusing to restore him, and I trust will continue to do it to the end. But if, in the performance of this duty, they are to be rebuked, not to say insulted, by every gentleman of the laity, who feels disposed to claim more knowledge of Church principles and more zeal for their righteous administration than the majority of the bishops, or even all of them together, it is certainly high time for candid and sober minded men to look for refuge to *principles*, and to stand together in defence of that sacred and holy *discipline*, which rests upon the will and word of God.

Too strict and watchful over the lives of the Bishops, the Church never was, in her purest days, and never can be. The real danger is all on the other side. Discipline is the only instrument of safety; and, painful and distressing as the remedy may be, we must choose between an honest and enlightened use of it upon the one hand, and alienation, disgust and ruin on the other.

"It is a thing generally acknowledged by all," saith the learned

Bingham, "that the glory of the ancient Church was her discipline; and it is as general a complaint of the misfortune of the present Church, that corruptions abound, for want of reviving and restoring the ancient discipline. Now if there be any truth in either of these observations, it ought to be a quickening argument to all that sit at the helm of government in the Church, to bestir themselves with their utmost zeal, that discipline, where it is wanting, may at least be restored among the clergy; that no scandals or offences may be tolerated among them, whose lives and practices ought to be a light and a guide to others. And if either rules or examples can encourage this, those of the primitive Church are most provoking; her rules of discipline were most excellent and exact in themselves; and for the most part, as exactly managed by the persons entrusted with the execution of them."—(*Bing. Ch. Antiq. B.* VI. *C.* V. § 8.)

These words of wisdom were written for our venerated Mother Church, and are applicable at this day, to both the mother and the daughter, notwithstanding the fact which I most fully believe, that there is not to be found a purer body of men, as a whole, than the clergy of both the Churches, in any quarter of the world. But discipline is necessary to keep them so. And I rejoice that the subject is receiving the attention it deserves. There is nothing in our condition at this time, more worthy to unite all good men of every party, in their efforts, their counsels, and their prayers.

And now I close my humble labor, in defence of the House of Bishops. Much might be added, if I were inclined to notice the many sharp thrusts of our adversary, and especially his severe attack on Bishop Meade, my worthy and widely revereneed brother of Virginia. But on this field of remark I shall not enter. My object is to vindicate *principles*, rather than men; and men only so far as they maintain those principles, which constitute the praise and glory of the Church throughout the world. Bishop Meade stands in no need of defence from me. His life is his defence, and I would to God that we could all appeal to the same evidence, with equal safety.

Our learned antagonist, however, seems to think it matter of reproach that this eminent man has been *the leader* in all the presentments against Bishops. But who has a right to impeach the honesty of his motives, or the utility of his labors, in this most thankless yet most important part of his official duty? Assuredly there are thou-

sands in our Church, and tens of thousands in our land, who have cordially approved it; while yet there might not be one amongst them all who would have undergone the odium, toil and trouble of the task. As for myself, I lay no claim to the Christian boldness and fearlessness which it required. But yet I should esteem it an honor far beyond any in my reach, if my epitaph could say, "Here lies the body of a Bishop, who was distinguished beyond all his brethren for his zealous, sincere and consistent support of pure Church discipline."

With respect to my unhappy colleague of former years, the Right Rev. Henry U. Onderdonk of Pennsylvania, in whose behalf our formidable assailant has so fiercely attacked our course, from first to last, I believe there is not an individual amongst our whole body, who has not every disposition to admire his talents, to do justice to his present character, and to sympathize in the humiliation and consequent sufferings which attended his fall. But these personal regards give us no right, as *Trustees of God and the Church*, to restore him to office. Our refusal to do this is not the dictate of feeling, but the necessity of duty. And woe be to the Church, if ever the day should come when her highest offices can be either conferred or restored, by "fear, favor or affection."

Lastly, I shall take my leave of our accomplished censor by thanking him for this display of his well-known ability. Yes! I thank him, notwithstanding I am one of those whom he accuses with so much polished virulence—notwithstanding I have proved him to be utterly mistaken—notwithstanding I consider his assault to be most unwise, unjust and unkind—yet I thank him, because his work has forced upon the mind of the Church a better understanding of her high and holy principles, and because the result will be for good. It is no new thing that God, in His mercy, should cause "the wrath of man to praise Him," while "the remainder of that wrath is restrained."

With my earnest prayer that you, my beloved brethren, may be led to a right judgment in this and all things, I remain,

Your affectionate servant in Christ,

JOHN H. HOPKINS.

Burlington, Vermont,
July 10th, 1854.